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14 Attorneys for Plaintiffs BRADLEY STEPHEN COHEN
and COHEN ASSET MANAGEMENT, INC.

15 **UNITED STATES DISTRICT COURT**

16 **STATE OF NEVADA – LAS VEGAS**

17 BRADLEY STEPHEN COHEN, an
18 individual; and COHEN ASSET
MANAGEMENT, INC., a California
19 corporation,

20 Plaintiffs,

21 v.

22 ROSS B. HANSEN, an individual;
NORTHWEST TERRITORIAL MINT,
23 LLC, a Washington limited liability
company; and STEVEN EARL
24 FIREBAUGH, an individual,

25 Defendants.

Case No. 2:12-cv-01401-JCM-PAL

**PLAINTIFFS' MOTION
FOR LEAVE TO SUBPOENA
DEPOSITION OF CHRIS C.
KEENAN**

1 Pursuant to Fed. R. Civ. P. 26, 30 and 45, Plaintiffs hereby move for leave to
2 subpoena the deposition of Chris C. Keenan (“Keenan”). Since the deadline for
3 discovery has closed, Plaintiffs are seeking the Court’s leave to depose Keenan who
4 resides in Minnesota.

5 Beginning in late February 2014, Plaintiff Bradley Stephen Cohen (“Cohen”),
6 as the President and Chief Executive Officer of Plaintiff Cohen Asset Management,
7 Inc. (“CAM”), began discussing a joint venture arrangement with Olympus
8 Ventures, LLC (“Olympus”), whereby Olympus would fund the major equity
9 portion of a new three building industrial real estate portfolio in Phoenix, Arizona.
10 *See* Cohen Aff. (Doc. No. 169-1) at ¶¶ 1-4. On March 12, 2014, Keenan, the Senior
11 Management of Real Estate Acquisitions for Olympus, advised Cohen that Olympus
12 could not invest with a group that has a negative public cloud hanging above them,
13 *i.e.*, Defendants’ website. *See id.* at ¶ 5. Keenan advised Cohen that Olympus’
14 investors wanted to invest discreetly and be kept out of the news, and that even if
15 the Defendants’ website had no validity whatsoever, Olympus was unwilling to
16 move forward based on the appearance of alleged impropriety. *See id.* As a result,
17 Olympus declined to invest between \$10 to \$15 million dollars with CAM solely
18 due to Defendants’ website. *See id.* at ¶ 6. Upon learning of this new evidence of
19 additional damages that could not have been previously discovered, Plaintiffs
20 promptly disclosed the damages to Defendants and the Court. *See* Doc. No. 169.

21 Since then, Plaintiffs have learned Keenan does not wish to cooperate as a
22 witness and appear at the trial in Nevada. While the time for discovery has closed,
23 this is new evidence that Plaintiffs could not have been aware of prior to the close of
24 discovery, and there is no delay in this matter since no trial has been set and the
25 Court has indicated it will give Defendants additional time to file dispositive
26 motions. *See* Doc. No. 113, 130 & 181. Moreover, the Court contemplated such
27 new evidence may result when it ordered Defendants to disclose the monthly
28 Google Analytics reports and comments to Plaintiffs showing who had visited and

1 commented on Defendants' active website. *See* Doc. No. 117.

2 Accordingly, Plaintiffs respectfully request the Court grant them leave to
3 subpoena the deposition of Keenan so that his testimony may be used at trial, as
4 permitted by Fed. R. Civ. P. 32, to provide evidence of Plaintiffs' damages.

5 DATED this 11th day of June, 2014.

6 MITCHELL & ASSOCIATES, P.C.

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9 By /s/ Robert D. Mitchell
10 ROBERT D. MITCHELL
11 Attorneys for Plaintiffs
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CERTIFICATE OF SERVICE

I hereby certify and declare under penalty of perjury that on June 11, 2014, I electronically filed the foregoing with the Clerk of Court for filing and uploading to the CM/ECF system which will send notification of such filing to all parties of record.

/s/ Robert D. Mitchell